

## Internal Revenue Service

Department of the Treasury  
Washington, DC 20224

Number: **201246026**

Release Date: 11/16/2012

Index Number: 7701.00-00, 9100.31-00

Third Party Communication: None  
Date of Communication: Not Applicable  
Person To Contact:  
, ID No.  
Telephone Number:

Refer Reply To:  
CC:PSI:B02  
PLR-130164-12  
Date:  
July 20, 2012

### Legend

X =

State =

D1 =

D2 =

Dear :

This responds to your letter dated July 13, 2012 submitted on behalf of X, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file an election to be classified as a partnership for federal tax purposes.

The information submitted states that X was formed in State on D1 as an entity eligible to make a classification election. X timely filed a valid election to be treated as an S corporation under § 1362(a) on Form 2553, Election by a Small Business Corporation, effective on D1, which resulted in X being treated as making an initial entity classification election to be classified as an association taxable as a corporation for Federal income tax purposes under § 301.7701-3(c)(1)(v)(C). As of D2, X intended to be treated as partnership for Federal income purposes. X validly revoked its S election effective D2 by filing a statement with the Internal Revenue Service center in accordance with § 1.1362-6(a)(3)(i). However, X failed to file Form 8832, Entity Classification Election, to make a subsequent entity classification election, also effective on D2, to be classified as a partnership.

Section 301.7701-2(a) generally provides that a business entity is any entity recognized for federal tax purposes that is not properly classified as a trust under § 301.7701-4 or otherwise subject to special treatment under the Internal Revenue Code.

Section 301.7701-3(a) provides that so long as a business entity is not classified as a corporation under § 301.7701-2(b)(1), (3), (4), (5), (6), (7) or (8) (an eligible entity), it may elect its classification for federal tax purposes.

Section 301.7701-3(a) further provides that an eligible entity with at least two members can elect to be classified as either an association (and thus a corporation under § 301.7701-2(b)(2)) or as a partnership, and an eligible entity with a single owner can elect to be classified as an association or to be disregarded as an entity separate from its owner.

Section 301.7701-3(c)(1)(i) provides that an eligible entity may elect to be classified other than as provided under § 301.7701-3(b) by filing a Form 8832 with the appropriate service center. Under § 301.7701-3(c)(1)(iii), this election will be effective on the date specified by the entity on Form 8832 or on the date filed if no such date is specified on the election form. The date specified on Form 8832 cannot be more than 75 days prior to the date on which the election is filed and cannot be more than 12 months after the date on which the election is filed.

Section 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time to make a regulatory election, or a statutory election (but no more than six months except in the case of a taxpayer who is abroad), under all subtitles of the Code, except subtitles E, G, H, and I. Section 301.9100-1(b) defines the term regulatory election as including an election with a deadline prescribed by a regulation published in the Internal Revenue Bulletin.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make an election. Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides extensions of time for making elections that do not meet the requirements of § 301.9100-2.

Section 301.9100-3(a) provides that request for relief under § 301.9100-3 will be granted when the taxpayer provides evidence to establish that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the Government.

Based solely on the facts submitted and representations made, we conclude that the

requirements of § 301.9100-3 have been satisfied. Accordingly, X is granted an extension of one hundred and twenty (120) days from the date of this letter to elect to be classified as a partnership for federal tax purposes, effective D2. The election should be made by filing Form 8832 with the appropriate service center. A copy of this letter should be attached to the election.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Internal Revenue Code provides that it may not be used or cited as precedent. In accordance with the power of attorney on file with this office, a copy of this letter will be sent to X's authorized representative.

Sincerely,

Associate Chief Counsel  
(Passthroughs & Special Industries)

By: \_\_\_\_\_  
Bradford R. Poston  
Senior Counsel, Branch 2  
Office of Associate Chief Counsel  
(Passthroughs & Special Industries)

Enclosure (2)  
Copy of this letter  
Copy for § 6110 purposes